

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ITALIAN EXHIBITION GROUP USA, INC.,

Plaintiff,

-against-

FABRIZIO BARTOLOZZI, et al.,

Defendant(s).

23-cv-4417 (AS)

ORDER

ARUN SUBRAMANIAN, United States District Judge:

On November 2, 2023, Defendant Fabrizio Bartolozzi sought leave to file a motion for partial summary judgment on some of his declaratory-judgment counterclaims. Dkt. 71. On November 8, 2023, the Court granted the request. Dkt. 79. In the briefs, the parties focused largely on legal issues, but Plaintiff IEG also identified some items of discovery it was seeking that might bear on the motion. *See* Dkt. 91 at 19–20. These items include deposing Bartolozzi to learn about his involvement in his notice of termination as well as potential documents and depositions to understand the meanings and materiality of certain contract terms and alleged breaches. The Court doubts that discovery will produce anything giving rise to a genuine dispute of material fact; these claims rely mostly on documentary evidence. But the Court also recognizes that “[o]nly in the rarest of cases may summary judgment be granted against a plaintiff who has not been afforded the opportunity to conduct discovery.” *Hellstrom v. U.S. Dep’t of Veterans Affs.*, 201 F.3d 94, 97 (2d Cir. 2000). And it cannot say with complete confidence that the documents alone settle this motion. Under these circumstances, the Court may “defer considering the motion or deny it.” Fed. R. Civ. P. 56(d)(1). The Court denies the motion without prejudice. Bartolozzi may seek to renew his motion after IEG has taken the discovery it thinks is relevant to these claims, or, perhaps more efficiently, Bartolozzi may renew his motion along with other summary-judgment motions at the close of discovery.

The Clerk of Court is directed to close Dkt. 82.

SO ORDERED.

Dated: January 26, 2024

New York, New York



ARUN SUBRAMANIAN
United States District Judge